

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTHONY MARQUISE EMERY, JR,

Petitioner,

v.

PATRICK GLEBE,

Respondent.

CASE NO. 3:15-CV-05280-BHS-DWC

REPORT AND
RECOMMENDATION

NOTING DATE: JUNE 12, 2015

The District Court has referred this 28 U.S.C. § 2254 Petition for a writ of habeas corpus to United States Magistrate Judge David W. Christel. Before the Court is Petitioner's Motion to Proceed *In Forma Pauperis*. See Dkt. 1, 3.

The right to proceed in forma pauperis is not absolute. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). Proceeding *in forma pauperis* is a matter within the sound discretion of the trial court in civil actions. *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963). Here, Petitioner provides his prison trust account summary showing an average spendable balance of fourteen dollars and thirty-three cents (\$14.33). Dkt. 3. Petitioner can afford to pay the five dollar (\$5.00)

1 filing fee. Accordingly, the Court recommends denial of the motion to proceed in forma
2 pauperis.

3 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
4 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.
5 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *See*
6 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the
7 clerk is directed to set the matter for consideration on June 12, 2015, as noted in the caption.

8 Dated this 18th day of May, 2015.

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11 David W. Christel
12 United States Magistrate Judge
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